

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

**AUDIT AND GOVERNANCE COMMITTEE – WEDNESDAY, 25
JANUARY 2023**



Title of Report	REVIEW OF THE COUNCIL'S CONSTITUTION	
Presented by	Elizabeth Warhurst – Head of Legal and Commercial Services and Monitoring Officer	
Background Papers	Current Constitution	Public Report: Yes
Purpose of Report	To ask the Committee to consider the work of the Constitution Member Working Group on developing a new Constitution for the Council and to recommend its adoption to Council.	
Recommendations	<p>THAT AUDIT AND GOVERNANCE COMMITTEE:</p> <ol style="list-style-type: none"> 1. NOTES THE WORK OF THE WORKING GROUP IN RESPECT OF THE PROPOSED NEW CONSTITUTION 2. CONSIDERS THE PROPOSED NEW CONSTITUTION 3. RECOMMENDS THE NEW CONSTITUTION (AS SET OUT IN APPENDIX A) TO COUNCIL AT ITS MEETING ON 23 FEBRUARY 2023 FOR ADOPTION WITH EFFECT FROM 9 MAY 2023 	

1.0 BACKGROUND

- 1.1 The Local Government Act 2000 requires each local authority to prepare, keep up to date and publicise the document known as the Constitution.
- 1.2 The Constitution should be logical, integrated and accessible to members, officers, the public and anyone else interested in the way a local authority makes its decisions. There is also a statutory requirement on the Council's Monitoring Officer to keep the Constitution up to date, and accordingly the update of the Constitution is an on-going process.
- 1.3 Full Council regularly considers items relating to updates to the Constitution. The updates are generally required due to legislative and organisational changes or to clarify and improve processes within the Council to reflect best practice.

2.0 METHOD OF REVIEW

- 2.1 In previous years the review has involved consulting officers on areas of the Constitution that need updating/amending, updating any areas that have been raised with the Legal Team previously for clarity, reflecting any relevant changes in law and incorporating any feedback raised by members.
- 2.2 This year it was identified that a broader review of the whole Constitution may be needed. Whilst our current Constitution has worked well, it was felt that it could be made clearer and more accessible. Best practice was also identified based on the constitutions of other councils and was taken into account in the approach to remodelling ours.
- 2.3 For the 2021/22 annual review and following interest expressed by members, a cross party member working group was established to feed into the work on the Constitution review. The Constitution Member Working Group comprised of Councillors Ashman, Hay, Morris, Richichi, Saffell, Simmons and Wyatt, and met on the following dates:
- 10 December 2021
 - 31 January 2022
 - 4 March 2022
 - 27 May 2022
 - 22 July 2022
 - 10 October 2022
 - 8 December 2022
- 2.4 At the first meeting of the Constitution Member Working Group, members agreed that, rather than follow the usual process for reviewing the Constitution, a full review was needed. Members felt that it was an opportune time to consider the document as a whole to improve accessibility and ease of use. Members were shown some example constitutions from other district councils and chose one that they preferred for the new Constitution to be based on.
- 2.5 The Constitution Member Working Group also agreed the detailed methodology for the review. Once a suitable example constitution had been identified, the Legal Team broke it down into sections and compared it against the equivalent sections in the current Constitution. The team sought to preserve the wording and layout of the example constitution and only make changes to it to reflect how we work as a Council (e.g. committee titles and where decisions are made, etc.)
- 2.6 Proposed changes were presented to the Constitution Member Working Group accompanied with a separate change tracker document and any feedback from members within the group was taken into account in updating the relevant sections. The Constitution Member Working Group has been invaluable in providing member insight and constructive challenge to the review process and are thanked for their time and work on this project.

3.0 KEY CHANGES TO THE CONSTITUTION

- 3.1 The substance of the Constitution has not changed significantly, as the main changes have primarily been how it looks and is presented. The new Constitution is provided at Appendix A.
- 3.2 The review table at Appendix B sets out the full extent of the changes made and how the current Constitution has been captured in the new version.

- 3.3 The area that has changed the most is the Scheme of Delegation. The intention of the changes is to give clarity to officers on the powers they have delegated to them. The intention of the changes is to provide clarity to officers on the powers which have been delegated to them not to change the balance of delegations which Council have agreed.
- 3.4 Our current Constitution provides both general and specific delegations to specific officers. The proposed new Scheme of Delegation delegates all powers in relation to specific services to the Head of Service and then the Head of Service delegates their powers onwards through a local scheme of delegation. The local schemes of delegation do not form part of the Constitution document itself but will be made available on the Council's website.
- 3.5 Aside from the local scheme of delegation, officers may need specific authorisations (e.g. rights of entry). These will be delegated through specific authorisation forms, similar to those used currently for all delegations.
- 3.6 Apart from any specific delegations, officers are free to take whichever actions or decisions enable them to do their job as set out in their job description without the need for any further forms. Whilst this is the position under our current Constitution, it is not as clear as it could be because of the way it is presented.
- 3.7 Since the Constitution Member Working Group saw the last version of the Constitution in December 2022, a further change has been made to reflect some new requirements from CIPFA. CIPFA reissued its "Position Statement: Audit Committees in Local Authorities and Police 2022" along with some supplementary guidance on the statement at the end of last year. The statement represents CIPFA's view on the audit committee practice and principles and it is expected that all local government bodies should make their best efforts to adopt the principles, aiming for effective audit committee arrangements.
- 3.8 The guidance from CIPFA indicates that two independent persons should be co-opted onto the Audit and Governance Committee and that members of the Committee should not overlap with those exercising Scrutiny or Cabinet functions. The new Constitution has been amended to allow for the appointment of the independent persons and the Internal Audit Manager will bring a paper to the Committee to update further on the recent guidance.
- 3.9 As part of the review, all cross-references and legislative references in our current Constitution were checked to make sure they remain up-to-date before repeating in the new version. An anomaly was identified in respect of the Licensing Committee as it is a legal requirement that it has no more than 15 members (as opposed to the 17 it currently has). The new constitution has addressed this.
- 3.10 Although the draft Constitution is complete, the final version will be updated to include hyperlinks, so that it is easier to navigate to relevant sections within the document and to any other webpages or documents that sit outside of the document and are referred to within it. This work will be undertaken prior to publication.
- 3.11 As the new Constitution has changes that affect committee membership (as explained above), it is proposed that it is adopted from the new civic year, on 9 May 2023 when new councillors take their seats following the elections on 4 May 2023. This will enable the arrangements and appointments at the annual meeting to comply with the new constitution.

4.0 CONSULTATION

- 4.1 As some sections of the consultation affect employees, the Head of Human Resources and Organisational Development consulted with CLT on the Officers' Code of Conduct and Employment Procedure Rules at its meeting on 26 October 2022.
- 4.2 In addition, consultation was carried out on the Officers' Code of Conduct with team managers and the trade unions.
- 4.3 UNISON confirmed that they had no comments to make and no responses were received from the other trade unions. Responses received from team managers were considered and taken account of when finalising the Officers' Code of Conduct.

Policies and other considerations, as appropriate	
Council Priorities:	An up to date and modern constitution helps the council to make robust and effective decisions and deliver corporate priorities
Policy Considerations:	N/A
Safeguarding:	N/A
Equalities/Diversity:	N/A
Customer Impact:	The constitution is made available to customers on the Council's website and the intention of replacing it is to make it more accessible and easier to understand.
Economic and Social Impact:	N/A
Environment and Climate Change:	N/A
Consultation/Community Engagement:	The MO consulted and engaged with the Chief Executive, Directors, S151 Officer, other officers, the Leader and Deputy Leader and the Constitution Member Working Group. The Head of HR and OD consulted with CLT, team managers and trade unions on the aspects that affect employees (as detailed in section 4 of the report).
Risks:	An up to date constitution which is reviewed regularly ensures that robust effective decisions can be made by members and officers
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